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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(C-533-868)

Welded Stainless Pressure Pipe from India: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

DATES: Effective date: October 20, 2015

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita at (202) 482-4243, or Mandy Mallott at (202) 482-6430, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION

The Petition

On September 30, 2015, the Department of Commerce (“Department”) received a countervailing duty (“CVD”) petition concerning imports of welded stainless pressure pipe (“welded stainless pipe”) from India, filed in proper form on behalf of Bristol Metals, LLC, Felker Brothers Corp, Outokumpu Stainless Pipe, Inc., and Marcegaglia USA (collectively, “Petitioners”). The CVD petition was accompanied by an antidumping duty (“AD”) petition concerning imports of welded stainless pipe from India.¹ Petitioners are domestic producers of welded stainless pipe.²

¹ See “Petition for the Imposition of Antidumping and Countervailing Duties: Welded Stainless Pressure Pipe from India,” dated September 30, 2015 (“Petition”).

² See Volume I of the Petition, at 2.

On October 2, 2015, the Department requested information and clarification for certain areas of the Petition.³ Petitioners filed responses to these requests on October 6, 2015.⁴

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (“the Act”), Petitioners allege that the Government of India (“GOI”) is providing countervailable subsidies (within the meaning of sections 701 and 771(5) of the Act) to imports of welded stainless pipe from India, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 702(b)(1) of the Act, for those alleged programs in India on which we have initiated a CVD investigation, the Petition is accompanied by information reasonably available to Petitioners supporting their allegations.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because Petitioners are interested parties as defined in section 771(9)(C) of the Act. The Department also finds that Petitioners demonstrated sufficient industry support with respect to the initiation of the CVD investigation that Petitioners are requesting.⁵

Period of Investigation

The period of investigation is January 1, 2014, through December 31, 2014.⁶

Scope of the Investigation

The product covered by this investigation is welded stainless pipe from India. For a full description of the scope of this investigation, *see* the “Scope of the Investigation” in Appendix I of this notice.

³ *See* letter from the Department, “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Welded Stainless Pressure Pipe from India: Supplemental Questions,” dated October 2, 2015 (“General Issues Questionnaire”); letter from the Department, “Petition for the Imposition of Countervailing Duties on Imports of Welded Stainless Pressure Pipe from India: Supplemental Questions,” October 2, 2015 (“CVD Deficiency Questionnaire”).

⁴ *See* letter from Petitioners, “Welded Stainless Pressure Pipe from India: Response to Supplemental Questions,” dated October 6, 2015, covering volume I (“General Issues Supplement”) and III (“CVD Supplement”) of the Petition.

⁵ *See* the “Determination of Industry Support for the Petition” section below.

⁶ 19 CFR 351.204(b)(2).

Comments on Scope of the Investigation

During our review of the Petition, the Department issued questions to, and received responses from, Petitioners pertaining to the proposed scope to ensure that the scope language in the Petition would be an accurate reflection of the products for which the domestic industry is seeking relief.⁷ As discussed in the preamble to the Department's regulations,⁸ we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope). The Department will consider all comments received from interested parties and, if necessary, will consult with the interested parties prior to the issuance of the preliminary determination. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. In order to facilitate preparation of its questionnaire, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time ("ET") on Tuesday, November 10, 2015, which is the first business day after 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Friday, November 20, 2015, which is 10 calendar days after the initial comments deadline.

The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the record of the concurrent AD investigation.

⁷ See General Issues Questionnaire and General Issues Supplement. See also Petitioners' submission, "Welded Stainless Pressure Pipe from India: Revised Scope Definition," dated October 15, 2015.

⁸ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS").⁹ An electronically-filed document must be received successfully in its entirety by the time and date it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Consultations

Pursuant to section 702(b)(4)(A)(i) of the Act, the Department notified representatives of the GOI of the receipt of the Petition. Also, in accordance with section 702(b)(4)(A)(ii) of the Act, the Department provided representatives of the GOI the opportunity for consultations with respect to the CVD petition. As the GOI did not request consultations prior to the initiation of this investigation, the Department and the GOI did not hold consultations.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or

⁹ See 19 CFR 351.303 (for general filing requirements); *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011), for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (“ITC”), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,¹⁰ they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹¹

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

¹⁰ See section 771(10) of the Act.

¹¹ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

With regard to the domestic like product, Petitioners do not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that welded stainless pipe constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.¹²

In determining whether Petitioners have standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in Appendix I of this notice. To establish industry support, Petitioners provided their shipments of the domestic like product in 2014, and compared their shipments to the estimated total shipments of the domestic like product for the entire domestic industry.¹³ Because total industry production data for the domestic like product for 2014 are not reasonably available to Petitioners, and Petitioners have established that shipments are a reasonable proxy for production data,¹⁴ we have relied upon the shipment data provided by Petitioners for purposes of measuring industry support.¹⁵

Our review of the data provided in the Petition, General Issues Supplement, and other information readily available to the Department indicates that Petitioners have established industry support.¹⁶ First, the Petition established support from domestic producers (or workers)

¹² For a discussion of the domestic like product analysis in this case, *see* Countervailing Duty Investigation Initiation Checklist: Welded Stainless Pressure Pipe from India (“India CVD Initiation Checklist”), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Welded Stainless Pressure Pipe from India (“Attachment II”). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

¹³ *See* Volume I of the Petition, at 2-3 and Exhibits I-1 and I-2; *see also* General Issues Supplement, at 3-8 and Exhibits I-9 and I-10.

¹⁴ *See* Volume I of the Petition, at 3 and Exhibit I-1; *see also* General Issues Supplement, at 3-6 and Exhibits I-8 and I-9.

¹⁵ For further discussion, *see* India CVD Initiation Checklist, at Attachment II.

¹⁶ *See* India CVD Initiation Checklist, at Attachment II.

accounting for more than 50 percent of the total shipments¹⁷ of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (e.g., polling).¹⁸ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total shipments of the domestic like product.¹⁹ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the shipments of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²⁰ Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the CVD investigation that they are requesting the Department initiate.²¹

Injury Test

Because India is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must

¹⁷ As mentioned above, Petitioners have established that shipments are a reasonable proxy for production data. Section 351.203(e)(1) of the Department’s regulations states “production levels may be established by reference to alternative data that the Secretary determines to be indicative of production levels.”

¹⁸ See section 702(c)(4)(D) of the Act; *see also* India CVD Initiation Checklist, at Attachment II.

¹⁹ See India CVD Initiation Checklist, at Attachment II.

²⁰ *Id.*

²¹ *Id.*

determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioners allege that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In CVD petitions, section 771(24)(A)-(B) of the Act provides that imports of subject merchandise from developing and least developed countries must exceed the negligibility threshold of four percent. Petitioners demonstrate that subject imports from India, which has been designated as a least developed country,²² exceed the negligibility threshold provided for under section 771(24)(B) of the Act.²³

Petitioners contend that the industry's injured condition is illustrated by reduced market share; decline in shipments, production, and capacity utilization; underselling and price suppression or depression; inventory overhang; decreased employment, hours worked, and wages; lost sales and revenues; and negative impact on profitability.²⁴ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.²⁵

Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) alleges the

²² See section 771(36)(B) of the Act.

²³ See General Issues Supplement, at 9 and Exhibit I-11.

²⁴ See Volume I of the Petitions, at 10-25 and Exhibits I-1, I-5, and I-7; *see also* General Issues Supplement, at 9 and Exhibit I-11.

²⁵ See India CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Welded Stainless Pressure Pipe from India.

elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to Petitioners supporting the allegations.

Petitioners allege that producers/exporters of welded stainless pipe in India benefit from countervailable subsidies bestowed by the GOI. The Department examined the Petition and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of welded stainless pipe from India receive countervailable subsidies from the GOI.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and CVD law.²⁶ The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.²⁷ The amendments to sections 776 and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this CVD investigation.²⁸

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on 25 of the 50 alleged programs in India. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the India CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

²⁶ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

²⁷ See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*). The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

²⁸ *Id.* at 46794-95.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

Petitioners named thirteen companies as producers/exporters of welded stainless pipe in India.²⁹ Following standard practice in CVD investigations, the Department will, where appropriate, select respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports of welded stainless pipe during the period of investigation. We intend to release CBP data under Administrative Protective Order (“APO”) to all parties with access to information protected by APO within five business days of publication of this *Federal Register* notice. The Department invites comments regarding respondent selection within seven business days of publication of this *Federal Register* notice.

Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS, by 5 p.m. ET by the date noted above. We intend to make our decision regarding respondent selection within 20 days of publication of this notice. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department’s Web site at <http://enforcement.trade.gov/apo>.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOI *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each known exporter (as named in the Petition), consistent with 19 CFR 351.203(c)(2).

²⁹ See Volume I of the Petition, at Exhibit I-4.

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of welded stainless pipe from India are materially injuring, or threatening material injury to, a U.S. industry.³⁰ A negative ITC determination will result in the investigation being terminated;³¹ otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties should review the regulations prior to submitting factual information in this investigation.

³⁰ See section 703(a)(2) of the Act.

³¹ See section 703(a)(1) of the Act.

Extension of Time Limits Regulation

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³² Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013,

³² See section 782(b) of the Act.

should use the formats for the revised certifications provided at the end of the *Final Rule*.³³ The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

October 20, 2015
Date

³³ See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (“*Final Rule*”); see also frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. References to size are in nominal inches and include all products within tolerances allowed by pipe specifications. This merchandise includes, but is not limited to, the American Society for Testing and Materials (“ASTM”) A-312 or ASTM A-778 specifications, or comparable domestic or foreign specifications. ASTM A-358 products are only included when they are produced to meet ASTM A-312 or ASTM A-778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope of the investigation are: (1) welded stainless mechanical tubing, meeting ASTM A-554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A-249, ASTM A-688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A-269, ASTM A-270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States (“HTSUS”). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

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